



BOARD OF COUNTY COMMISSIONERS

YELLOWSTONE COUNTY, MONTANA

Tuesday, June 28, 2016

SUBJECT: Zone Change #674 – Alexander Road
THROUGH: Candi Millar, AICP, Planning Director
FROM: Nicole Cromwell, AICP, Zoning Coordinator

REQUEST – This is a zone change request from Agriculture-Open Space (A-1) to Agriculture Suburban (AS) on Lots 1 through 8 of Spring Hill Acreage Tracts, Tracts 1 & 2 of C/S 1245, and Tracts 1 and 2 of C/S 1411, a total area of 27.626 acres of land. A pre-application neighborhood meeting was held on April 23, 2016, at 2717 Alexander Road. The Zoning Commission conducted a public hearing on June 13, 2016, and is forwarding a recommendation of approval on a 3-0 vote.

APPLICATION DATA

OWNER: Beth Degenhart, Laura Degenhart, Steve & Linda Degenhart
AGENT: Beth Degenhart
LEGAL DESCRIPTION: Lots 1 through 8 of Spring Hill Acreage Tracts, Tracts 1 & 2 of C/S 1245, and Tracts 1 and 2 of C/S 1411
ADDRESS: Multiple addresses on Alexander Road
CURRENT ZONING: Agriculture-Open Space (A-1)
EXISTING LAND USE: Agricultural land, single family homes
PROPOSED USE: Same
SIZE OF PARCEL: Total area 27.626 acres

APPLICABLE ZONING HISTORY

Subject Property – The properties subject to this application are in the A-1 zoning district and this was the original zoning of the properties (November 1973). All of the lots are less than 10 acres in area so they are legally non-conforming to the required minimum lot area for this zoning district.

Surrounding Properties – Property to the west and south of the subject properties was changed from A-1 to R-150 in June 1975. Property further west and north of Riveroaks Drive was changed from A-1 to R-96 in 1979 and 1980. Cornerstone Meadows Subdivision to the east was changed from A-1 to A-S in June 2003. Two subsequent zone changes in the subdivision changed most of the A-S zoning to R-96, R-150, and Public zoning.

CONCURRENT APPLICATIONS

None

SURROUNDING LAND USE & ZONING

NORTH: Zoning: A-1
Land Use: Agricultural land
SOUTH: Zoning: A-1
Land Use: Low density residential and agricultural land

EAST: Zoning: A-1
Land Use: Low density residential and agricultural land
WEST: Zoning: A-1 & R-150
Land Use: Low density residential and agricultural land

REASONS

The applicants are submitting this zone change from A-1 to A-S to allow additional lots of 1-acre to be created in the near future. The Billings Heights Water District is expanding its water service lines in the street (Lake Elmo Road) and out to Highway 87 N along Alexander Road. The current zoning will not allow the owners to create lots small enough to be served by Billings Heights Water District. The original zoning applied to these lots in 1973 required a 10-acre minimum lot area so all of the subject lots became legal nonconforming lots of record. The total area of the 5 lots included in this application is 27.626 acres. There are 3 existing residences among the 5 lots including 2931 Lake Elmo Road, 3035 Lake Elmo Road, and 2717 Alexander Road. The applicants do not intend, at this time, to create the maximum number of new lots under the proposed zoning.

The surrounding area is primarily low density residential uses as well as active agriculture including grazing, hay production, raising livestock, a community garden, and keeping horses. The land is situated between the BBWA Canal to the north and Five Mile Creek to the south. Access to the property is from Highway 87 North via Alexander Road. Lake Elmo Road is not connected to the south. Surrounding properties requested zoning changes in 1975, 1979, 1980, 2003, 2007 and 2008. Only one of those requests was denied in 2007 for Cornerstone Meadows Subdivision. The proposal was amended and eventually approved in 2008. All of the remaining requests were to up-zone the land from A-1 to a higher density residential use. The proposed zoning, A-S, for these parcels will keep the agricultural use of the property as the primary use, but allow residential development on lots of 1-acre or more.

The Planning Division reviewed the application and recommended approval to the Zoning Commission based on the findings of the 11 criteria for zone changes. The Zoning Commission concurred with this recommendation and findings. The 2008 Growth Policy encourages compatible development in existing neighborhoods. The primary use of the property will not change with the proposed A-S zoning, since the existing and proposed zoning have agricultural use as the primary use of property with residences allowed in both zones. The property owners have existing homes and agriculture uses on the property. The intent of the zone change is to create lots smaller than 10 acres to allow access to Billings Heights Water. The property owners would need to petition to annex to the Billings Heights Water District. The proposed zoning will promote health and welfare by allowing the owners to access clean public drinking water for their existing homes. The new zoning does consider the character of the area and the zoning is appropriate for the current and proposed uses of the property.

RECOMMENDATION

The Zoning Commission voted 3-0 to recommend approval and adoption of the findings of the 11 criteria for Zone Change #674.

ZONING COMMISSION PUBLIC HEARING AND DISCUSSION

The Zoning Commission conducted a public hearing on this application on June 13, 2016, and received the staff recommendation. The applicant's agent, Beth Degenhart, testified in favor of the application. There was no other testimony on the application.

Chair Dennis Cook closed the public hearing. Member Troy Boucher made a motion to recommend approval to the County Commissioners and it was seconded by member Ryan Wittman. The motion carried with a 3-0 vote.

PROPOSED COUNTY COMMISSION DETERMINATIONS

The Board of County Commissioners, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Yellowstone County and City of Billings 2008 Growth Policy?*

The proposed zoning does comply with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and area plans:

- Goal: Predictable land use decision that are consistent with neighborhood character and preferred land use patterns identified in the growth policy. (Land Use Element, page 6).

This zone change would allow for lots smaller than 10 acres in an area of the county where lots vary from ½-acre to 18.5 acres. The existing zoning of A-1 only allows 10 acre parcels for a single home. The proposed A-S zoning is the same zoning as some of the tracts to the east. This zoning will allow the owners to divide the lots to create 1 acre parcels, serviceable by the Billings Heights Water District. Most of the lots will keep the agriculture use as the primary use of the property.

- Goal: New developments that sensitive to and compatible with the character of adjacent development. (Land Use Element Goal, page 6).

This property is directly east of properties zoned R-150 and developed as county residential development. Development of this property for low density residential uses with agriculture under the new zoning will be compatible with the character of adjacent development.

2. *Is the new zoning designed to secure from fire and other danger?*

The subject property is currently served by the Billings Urban Fire Service Area (BUFSA). The nearest fire station is located at Wicks Lane and St. Andrew's Drive, Station #6, about 3.4 driving miles to the south. If the property is divided and residences constructed, the BUFSA will assess fees according to the type of structure. The existing and proposed zoning requires building separations, setbacks, and height limits that should provide security from fire or other public safety emergencies.

3. *Will the new zoning facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements?*

Transportation: The new zoning could minimally increase traffic on Alexander Road after a division of the lot and homes are constructed. Current traffic consists of residents and caretakers of agricultural land and horses.

Water and Sewerage: The subject properties are served by domestic water wells and septic systems. Billings Heights Water District is bringing water lines up Lake Elmo Road and the zone change will provide an opportunity for connection to the public water services. Should future development take place, the Montana Department of Environmental Quality (MDEQ) would require permits for septic systems at the time development is proposed.

Schools and Parks: The proposed zoning may impact the student population should the property be developed with additional homes. Independent Elementary has capacity issues at this time. Castel Rock and Skyview High School have the capacity to accommodate the possibility of additional students from any additional homes.

Fire and Police: The subject property is serviced by BUFSA and the Yellowstone County Sheriff's Department. Fire protection will be accommodated with any requirements that may result from any future development.

4. *Will the new zoning promote health and general welfare?*

The new zoning will allow development of property that is adjacent to existing low density residential uses and agricultural uses surrounding the 5 lots. New residential development similar in nature to existing development tends to increase property value for surrounding owners.

5. *Will the new zoning provide adequate light and air?*

The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. These requirements should allow adequate light and air to reach the subject property and adjacent properties.

6. *Will the new zoning effect motorized and non-motorized transportation?*

The proposed zoning itself will not generate more traffic on any of the adjacent streets. Pedestrian traffic in the area is limited due to the lack of sidewalks and trails. More dense residential development is generally located south and east of the property within the city limits. Should the property develop in the future, Alexander Road provides the primary route to schools and other services in the area. Alexander Road is designated an arterial street and is maintained as a County gravel road.

7. *Will the new zoning be compatible with urban growth in the vicinity?*

The proposed zoning is compatible with the adjacent zoning and developments, as the proposed zoning is an agricultural zoning and the subject property is adjacent to agricultural and residential zoning.

8. *Does the new zoning consider the character of the district and the suitability of the property for particular uses?*

The subject property is in an area that is a mix of agricultural uses and residential uses. The property is suitable for A-S uses and any future site development will be in character with adjacent uses.

9. *Will the new zoning conserve the value of buildings?*

The new zoning will allow the subdivision of the lots into lots of at least 1 acre in area. The applicants do not intend at this time to create more than 1 additional lot on each parcel. Although the A-S zoning allows lots as small as 1 acre, any new septic systems may require more area for adequate drainfields and replacement drainfields. The proposed A-S zone will conserve the value of the existing agricultural buildings on the property.

10. *Will the new zoning encourage the most appropriate use of land in Yellowstone County?* The property is suitable for the uses allowed in the A-S zoning district. It is next to existing

agricultural and residential uses and will not introduce conflicting zoning with other uses in the area.

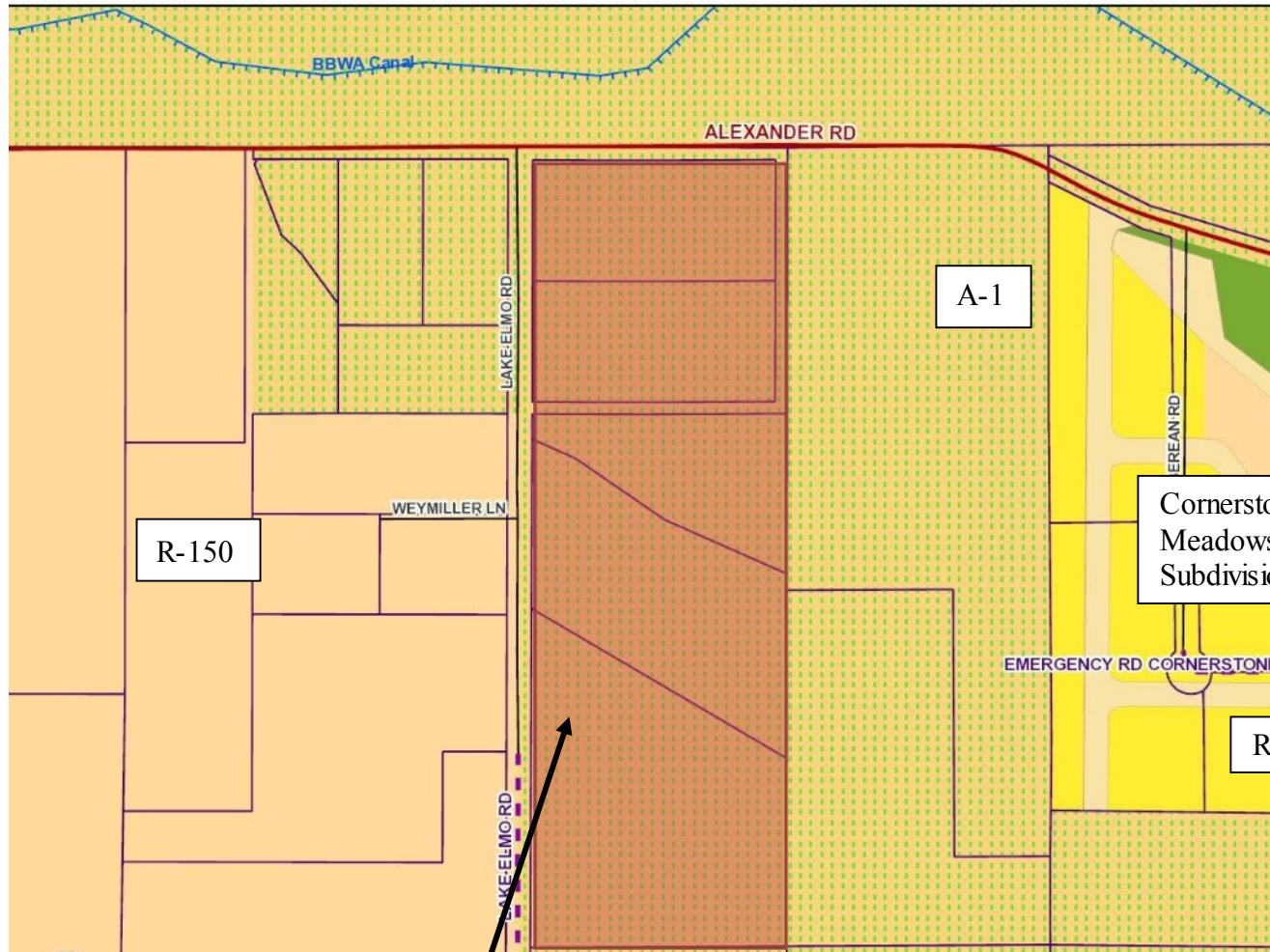
11. *Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?*
The proposed zoning is near the City of Billings and is surrounded by other agricultural and residentially zoned property. The request to rezone from A-1 to A-S will be compatible with its surrounding zoning and uses. This zoning would allow for smaller lots than what is currently allowed by zoning. The A-S zoning is as compatible as possible with the nearby zoning in the city limits.

Attachment: Zoning Map and Site Photographs

Attachment: Applicant Letter & Pre-application neighborhood meeting minutes

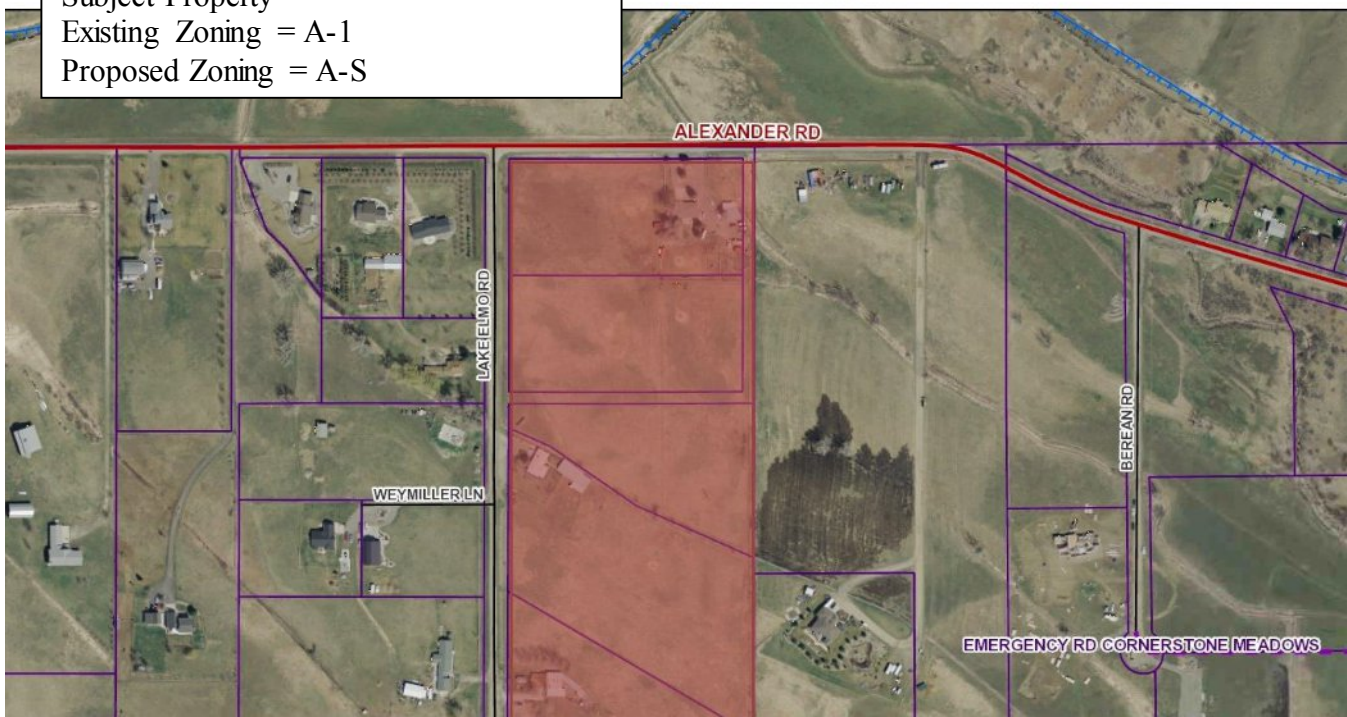
Zoning Map and Site Photos – Zone Change 674

County Zone Change 674



County Zone Change 674

Subject Property
Existing Zoning = A-1
Proposed Zoning = A-S





View east from Lake Elmo Road



View south along Lake Elmo Road



West across Lake Elmo Road



From south end of Lake Elmo Road view north

Application and pre-app meeting – Zone Change 674

APPLICATION FORM

COUNTY ZONE CHANGE County Zone Change # 674 - Project # P2-16-00081

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the Yellowstone County Unified Zoning Regulations.

Present Zoning: Ag / Open

Proposed Zoning: Ag / Suburban

Tax ID # C05517, D04993 COUNTY COMMISSIONER DISTRICT # 2

Legal Description of Property: Lot 5-8 of Spring Hills Acreage (C05517)
Parcel 1 of C.O.S. 1245 (D04993)

Address or General Location (If unknown, contact County Public Works): C05517 & D04993
are both at 2717 Alexander Road, Billings, MT 59105

Size of Parcel (Area & Dimensions): C05517 is 4.16 acres
D04993 is 3.46 acres

Present Land-Use: Agricultural

Proposed Land-Use: Residential / Agricultural

Covenants or Deed Restrictions on Property: Yes _____ No ✓

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): On 4/22/2016 Richard Degenhart deeded property to Beth Degenhart

(Recorded Owner)

Richard's address 115 N 9th St. Billings MT 59101

(Address)

406-860-6807

(Phone Number)

(email)

email N/A

Agent(s): Beth Degenhart

(Name)

2717 Alexander Rd, Billings MT 59105

(Address)

406-1461-6550

(Phone Number)

(Email)

bdegenhart@billingsclinic.org

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Richard D Degenhart
(Recorded Owner)

Date: 4-29-2016

Beth A Degenhart

4-29-2016

APPLICATION FORM

COUNTY ZONE CHANGE County Zone Change # 674 ^{pt 2} - Project # P2-16-CCOS 1

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the Yellowstone County Unified Zoning Regulations.

Present Zoning: Ag/Open

Proposed Zoning: Ag/Suburban

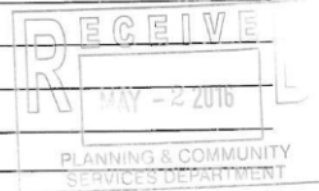
Tax ID # C05516 COUNTY COMMISSIONER DISTRICT # 2

Legal Description of Property: Lots 1-4 of Spring Hills Acreage Tract

Address or General Location (If unknown, contact County Public Works):

2717 Alexander Road, Billings MT 59105

Size of Parcel (Area & Dimensions): 4.156 acres Lot #1



Present Land-Use: Residential & Agricultural

Proposed Land-Use: The one acre we plan on re-platting would be residential.

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Beth Degenhart

(Recorded Owner) 2717 Alexander Rd, Billings MT 59105

(Address) 406-661-0550

(Phone Number) btegenhart@billingsclinix.org

(email)

Agent(s):

(Name)

(Address)

(Phone Number) (Email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: [Signature] Date: 4-29-16
(Recorded Owner)

APPLICATION FORM

COUNTY ZONE CHANGE

County Zone Change # 674

pt 3

- Project # PZ 16-00081

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the Yellowstone County Unified Zoning Regulations.

Present Zoning: Ag/OpenProposed Zoning: Ag/SuburbanTax ID # D04994 COUNTY COMMISSIONER DISTRICT # 2Legal Description of Property: Parcel 1 of C.O.S. 1411

Address or General Location (If unknown, contact County Public Works):

2717 Alexander Road, Billings, MT 59105Size of Parcel (Area & Dimensions): 6.22 AcresPresent Land-Use: Residential & AgriculturalProposed Land-Use: The one acre we plan on re-platting would be residential.Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Laura Degenhart

(Recorded Owner)

3035 Lake Elmo Road, Billings, MT 59105

(Address)

(Phone Number) 406-259-1991

(email)

email: N/AOwner Agent(s): Beth Degenhart

(Name)

2717 Alexander Rd., Billings, MT 59105

(Address)

(Phone Number) 406-601-6550

(Email)

email: bd@egenhart@billingsclinic.org

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Laura Degenhart Date: 4-29-16

(Recorded Owner)

P. G. [Signature]4-29-16

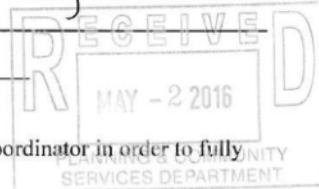
APPLICATION FORM ^{pt 4}COUNTY ZONE CHANGE County Zone Change # 674 - Project # P2-16-CCCS1

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the Yellowstone County Unified Zoning Regulations.

Present Zoning: Ag / OpenProposed Zoning: Ag / SuburbanTax ID # D04993 COUNTY COMMISSIONER DISTRICT # 2Legal Description of Property: Parcel 2 of C.O.S. 1411Address or General Location (If unknown, contact County Public Works): 2931 Lake Elmo Road,
Billings MT 59105Size of Parcel (Area & Dimensions): 9.63 acresPresent Land-Use: Residential & AgriculturalProposed Land-Use: The one acre we plan on re-platting would be,
residentialCovenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Steven & Linda Degenhart(Recorded Owner) 2931 Lake Elmo Road.(Address) 406-698-7598 email N/A

(Phone Number) (email)

Agent(s): _____

(Name)

(Address)

(Phone Number) (Email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Steven Degenhart Date: 4-30-16
(Recorded Owner)

Yellowstone County Zone Change Application for parties of Beth Degenhart, Richard Degenhart, Laura & Beth Degenhart, Steve & Linda Degenhart, and Randy & Paula Adams

Answer the following questions:

- A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy
- Under Land Use Element 2: *The current zoning ordinances and subdivision regulations do not always prevent incompatible uses in and adjacent to existing City neighborhoods and County townsites. Our objective would be to maintain a high quality of life for new and existing residents.*
 - Under Land Use Element 3: *Rural townsites are not prepared to handle increased growth. Our objective would be to use County resources and services more efficiently, i.e. City Water now that it is available.*
 - Under Economic Development Element 7: *Surrounding communities in the County need economic development to sustain them. Our objective is to promote business development by creating jobs for installing City Water Mains and putting money from City Water use back into the community.*
 - Under Economic Development Element 9: *The economic development of Billings Heights is overlooked. Our objective with Re-zoning is to improve the quality of life for Heights residents. In addition to capitalizing on existing infrastructure and facilities, i.e. City Water.*
 - Under Natural Resources Element 3: *Due in part to the arid nature of our environment and the remoteness of some developments, there is an increased risk to human life and property from wildfires. Our objective is to save lives and property as well as utilizing fire protection resources more efficiently, and protect the natural environment. We will be better able to accomplish this now with city water hydrants.*
- B. Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses for the immediate area.
- Currently, the parties of Beth Degenhart, Richard Degenhart, Laura & Beth Degenhart, Steve & Linda Degenhart are not in compliance with current zoning. We are all requesting to re-zone to Ag/Suburban. This would allow us to be able to re-plat the property our homes are on in order to connect to City Water now that it is available.
 - Randy and Paula Adams are proposing to re-zone to Ag/Suburban in order create lots that would be re-platted and be able to connect to City Water.

Beth Degenhart

Terry Degenhart

Richard Degenhart

Patrick Schmaing

Michael Jones

- called on phone 23

Michael & Cynthia Schmaing

Kelly Bruce Mitchell

Robert & Joan Lunder Trust

Thomas & Denise Kane

TK

Dover Ranch

Randall & Paula Adams

Randy + Paula Adams

Albert Degenhart

Laura & Beth Degenhart

Steven & Linda Degenhart

Steve & Linda Degenhart

Warren & Lynn Ketchum

Joe Burnett, 3074 Lake Elmo Dr

Tyler & Lori Ketchum

April 23, 2016

2717 Alexander Rd, Billings, MT. 59105

Pre-application meeting

Present: Beth Degenhart, Michael Jones called that morning, but was not present, Thomas Kane, Randy & Paula Adams, Steven & Linda Degenhart, and Joe Burst.

The meeting started at 1645. Beth began by explaining that there was a group who wished to hook up to the City Water, and we are therefore requesting a zoning change. Any property owners within 300 feet of the properties requesting a zoning change were notified of the tonight's meeting.

Joe Burst who resides at 3074 Lake Elmo Road stated he did not receive notice because his property is listed under a Family Trust and he is currently obtaining a contract for deed on his property.

Beth Degenhart begin by explaining that she, Laura Degenhart, Rick Degenhart, and Steve and Linda Degenhart are requesting a zoning change for C05516, C05517, D04993, D04994, and D04995 which are currently zoned Ag/Open. As a result of Ag/Open, we are unable to re-plat because all properties are under the required 10 acres. C05516 is 4.165 acres. C055170 is 4.160 acres. D04993 is 3.46 acres. D04994 is 6.22 acres, and D04995 is 9.63 acres. We are all requesting to re-zone Ag/Suburban, with a minimum of 1 acre, although you could do more. This would allow us to be able to re-plat the property our homes are on in order to connect to City Water. Maps of the above properties were shown, and are attached. (See Exhibit A1, & A2).

Randy Adams explained he and Paula are requesting that D12831 at 20 acres would re-zone 2 lots of that acreage into approximately 21,988 square feet (Lot 1), and 21,888 square feet (Lot 2). Map of the above property was shown. (See Exhibit B).

Tom Kane stated that he had visited with Theresa at the Department of Revenue and she said it would not affect the tax rate because the value of his land has not changed, just the zoning. (Tom Kane did request that I add the above statement to the minutes.

Beth asked if there were any objections. Seeing there was none, discussion ended at 1920.

Beth Degenhart kept minutes.